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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/111,731	07/08/1998	YOSHINOBU SHIRAIWA	35.C12836	6151

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FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER

BRIER, JEFFERY A

ART UNIT	PAPER NUMBER
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2672

DATE MAILED: 08/04/2004

38

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/111,731

Applicant(s)

SHIRAIWA ET AL.

Examiner

Jeffery A Brier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-9 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/14/2004 has been entered.

### ***Response to Amendment***

2. The amendment filed on 6/14/2004 has been entered.

### ***Response to Arguments***

3. Applicant's arguments filed 06/14/2004 have been fully considered but they are not persuasive.

On page 8 applicant argues that Hidaka is not understood to disclose or suggest ... wherein the conversion condition are obtained from a result of colorimetry for plural patches respectively performed under the light source having high color rendering properties and the light source having low color rendering properties. This is not persuasive because on page 7 lines 22-23 monitor profile 22 has data for white information and information of the background color of the monitor 24 and the ambient light sensor data of the sunlight data includes Wx, Wy, Wz, wx, and wy data. The white

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information corresponds to a patch and the background corresponds to a patch since each are different colors inherently displayed at different times or places on the monitor. The ambient light sensor data  $W_x$ ,  $W_y$ ,  $W_z$ ,  $w_x$ , and  $w_y$  is inherently from plural patches because the ambient environment is not uniform but made up of many patches of colors and grayscales. Applicant has not claimed any details of how plural patches are used to obtain the stored conversion conditions, thus, the process of obtaining the stored conversion conditions must be given their broadest reasonable interpretation. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Further on page 8 applicant argues that Hidaka is also not understood to teach ... and the generation of a second conversion condition based on white information of the first illumination light and white information of the second illumination light, as set forth in independent claims 1, 8 and 9. The claimed white information corresponds to color temperature, see claims 1, 8 and 9 in the amendment dated 12/23/03. As can be seen in equation 2 on page 8 of Hidaka the chromaticity information  $w_x, w_y$  of the ambient environment and the chromaticity of the monitor  $v_x, v_y$  are used to generate second conversion conditions. Claims 8 and 9 do not clearly claim this argued limitation. Thus, Hidaka still applies to claims 8 and 9.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1, 3-9 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed limitation generating a second conversion condition based on white information of the first illuminating light and white information of the second illuminating light found at lines 14-15 of claim 1 and argued on page 8 line 10-14 to be in independent claims 1, 8 and 9 is not taught by the application as filed. The claimed white information appears to correspond to color temperature, see the 9/11/02 and the 12/23/03 amendments to claims 1, 8 and 9. The color temperature is only described as being generated for the second illuminating light, see page 18 line 21 to page 19 line 5, page 27 lines 6-23, page 29 line 24 to page 30 line 23, page 36 lines 3-9, page 39 lines 21-25, page 41 line 26 to page 42 line 3, page 43 lines 11-22, page 45 lines 7-14, page 47 lines 1-12, and page 47 line 21 to page 48 line 3. Note page 19 lines 11-16 which discusses an arbitrary color temperature but does not discuss a color temperature based on first illuminating light and second illuminating light. Therefore, the claimed generating a second conversion condition based on white information of the first illuminating light and white information of the second illuminating

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light is not supported by the color temperature of the application and it is not supported for failure of the application to discuss the broader claim limitation of white information.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 8 and 9 are rejected under 35 U.S.C. 102(a) as being anticipated by Yumiko et al., EP 0 767 445 A2, published on April 09, 1997. Hidaka teaches using the white value of the second illuminating light at page 8 lines 10-15 and 32-40. A detailed analysis of the claim 8 follows.

Claim 8:

Claim 8	Hidaka et al., EP 0 767 445 A2
8. An image processing apparatus for converting data dependent on a first illuminating light into data dependent on a second illuminating light, comprising the steps of:	The image is scanned based upon a first light thus the image data is dependent upon a first illuminating light.  The scanned image data is then converted into data dependent upon a different light source, page 7 line 52 to page 8 line 1.
a data storing unit for storing a conversion condition	The ambient light sensor data Wx, Wy, Wz, wx, and wy are inherently stored in order to perform the calculations and monitor profile data Vx, Vy, Vz, vx, and vy are stored in monitor profile 22.

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<p>Continuation of previous page for a light source having high color rendering properties and</p> <p>a conversion condition for a light source having low color rendering properties;</p>	<p>Continuation of previous page Assuming sunlight is the ambient light then the ambient light would have high color rendering properties.</p> <p>Monitors have less rendering properties than sunlight, thus, the monitor profile data would have lower color rendering properties than sunlight.</p>
<p>an instruction unit for generating data indicating a proportion of synthesis of the stored conversion condition for the light source having high color rendering properties and the light source having low color rendering properties, corresponding to the second illuminating light;</p>	<p>Applicants proportion of synthesis (<math>IH_{ks}</math>) and Yumikos' adaptation ratio (s) are the same. See Yumiko page 8 lines 10-15 and 32-40.</p>
<p>a first calculating unit for generating a first conversion condition from the stored conversion condition for the light source having high color rendering properties and from the stored conversion condition for the light source having low color rendering properties, according to the data indicating the proportion of synthesis;</p>	<p>Yumikos' equation 1 corresponds to this claimed limitation.</p>
<p>a second calculating unit for generating a second conversion condition based on white information of the first illuminating light and white information of the second illuminating light; and</p>	<p>Yumikos' equation 2 corresponds to this claimed limitation. Chromaticity is color temperature and white information thus chromaticity equations 2 generate a conversion condition based on white information of the first light second light (observation environment, see page 7 lines 52-56). Note color temperature is described at page 7 line 53 as being used in the conversion process.</p>
<p>a converting unit for converting data dependent on the first illuminating light into data dependent on the second illuminating light using the first conversion condition and the second conversion condition.</p>	<p>The image scanned using the first light source is converted into data dependent upon a second illuminating light, Yumikos' observation environment page 8 lines 51-52, by using the first conversion condition and the second conversion condition.</p>

wherein said stored conversion conditions are obtained from a result of colorimetry for plural patches respectively performed under the light source having high color rendering properties and the light source having low color rendering properties

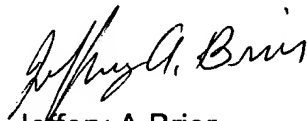
This is taught at page 7 lines 22-23. Monitor profile 22 has data for white information and information of the background color of the monitor 24 and the ambient light sensor data of the sunlight data includes Wx, Wy, Wz, wx, and wy data. The white information corresponds to a patch and the background corresponds to a patch since each are different colors inherently displayed at different times or places on the monitor. The ambient light sensor data Wx, Wy, Wz, wx, and wy is inherently from plural patches because the ambient environment is not uniform but made up of many patches of colors and grayscales. Applicant has not claimed any details of how plural patches are used to obtain the stored conversion conditions, thus, the process of obtaining the stored conversion conditions must be given their broadest reasonable interpretation. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim 9:

The claim is written as a computer readable recording medium claim storing the a program for performing the same method performed by the apparatus of claim 8. This claim is rejected for the same reasons given for claim 8 and since at page 5 line 34 a program in ROM 122 is described a controlling the processes of the apparatus, in view of page 11 lines 13-33, and in view of page 12 line 35.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is 703-305-4723. The examiner can normally be reached on M-F from 6:30 to 3:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (703) 305-4713). The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jeffery A Brier  
Primary Examiner  
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